Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking into the operation of interruptible load programs offered by Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company and the effect of these programs on energy prices, other demand responsiveness programs, and the reliability of the electric system.	Rulemaking 00-10-002 (Filed October 5, 2000) Phase 2

FINAL OPINION ON BILL LIMITER AND CLOSURE OF PROCEEDING

1. Summary

The May 21, 2002 petition for modification of Decision (D.) 02-04-060 filed by the California Industrial Users (CIU) and California Large Energy Consumers Association (CLECA) regarding the bill limiter is denied. The proceeding is closed.

2. Procedural Background

This proceeding was processed in two phases. Phase 1 addressed interruptible programs and curtailment priorities for Summer 2001. Phase 2 addressed these programs and priorities for the period after Summer 2001.

Phase 2 included the following issue:

> "Should the bill limiter provision currently reflected in the interruptible program tariffs of Southern California Edison Company [SCE] terminate on March 31, 2002." (Phase 2

Scoping Memo and Ruling, September 21, 2001, Attachment A, Issue 1.3.)

We decided that the bill limiter should not terminate, but should continue in part. (D.02-04-060, mimeo., pages 24-31.)

By petition dated May 21, 2002, CIU and CLECA seek modification of D.02-04-060. Petitioners propose that the bill limiter be continued in whole, and suggest a specific funding mechanism. On June 3, 2002, SCE responded with conditional support. No other responses were received.

3. Bill Limiter Background and D.02-04-060

Bill limiters for SCE interruptible program Schedules I-3 and I-5 were first adopted in SCE's 1992 general rate case (GRC) decision. (D.92-06-020, 44 CPUC2d 471, 528.) The purpose was to mitigate the impact of transferring Schedule I-3 and I-5 customers of record on December 31, 1992, to Schedule I-6 on January 1, 1993, given the lower level of interruptible credit in Schedule I-6. According to SCE, the bill limiter capped these customers' bills to a total of no more than 15% in 1993, and 30% in 1994, above what would have otherwise been their Schedule I-3 or 1-5 bills based on December 1992 rates.

Legislation adopted in 1993 prohibited reductions in interruptible credit levels during 1995 and 1996. (Pub. Util. Code § 743.1.) Legislation adopted in 1994 extended the prohibition through 1999. Legislation adopted in 1996 continued the prohibition through March 31, 2002.[1]

[1] Public Utilities Code § 743.1(b) currently states in pertinent part that "[i]n no event shall the level of the pricing incentive for interruptible or curtailable service be altered from the levels in effect on June 10, 1996, until March 31, 2002."

The Commission decision in SCE's 1995 GRC reduced revenues from bill-limited eligible customers by about $25 million per year, and raised rates and revenues from all other large power customers (Schedules TOU-8 and I-6) by an equivalent amount, according to SCE. There are approximately 100 customers subject to the bill limiter, with combined load of about 200 megawatts. (D.02-04-060, mimeo., page 25.)

SCE says that the annual revenue deficiency created by the bill limiter in 2002 is about $54 million. The increased revenue deficiency results from surcharges adopted by the Commission in 2001, according to SCE. These surcharges were applied in response to the energy crisis, and total about $0.04 per kilowatt-hour (kWh). (See D.01-01-018, D.01-03-082 and D.01-05-064.) Of the $54 million annual deficiency, SCE states that $25 million is recovered through the existing revenue shift to other large customers, and $29 million is not recovered from any other customer class.

Under current ratemaking mechanisms, the additional $29 million annual revenue shortfall results in a lower "surplus" to be applied toward recovery of the balance in the Procurement Related Obligations Account (PROACT). (See Resolution E-3765.) The resulting effect is to extend the PROACT recovery period and "frozen" Settlement rates for all customer classes. (D.02-04-060, mimeo., page 26.)

In our Phase 2 order, we considered three options: (1) end the bill limiter without other adjustment, (2) continue the bill limiter without adjustment, or (3) continue the bill limiter in part (for the portion of rates in effect before 2001). (D.02-04-060, mimeo., pages 29-30.) We decided to continue the bill limiter to the extent that it applies to the portion of rates in effect before 2001, but discontinue its application to the remainder of rates.

4. Petition for Modification of D.02-04-060

CIU and CLECA petition for modification proposing a fourth option: continue the bill limiter for all rate elements (including those in place both before and after 2001), and use a portion of the "catch-up" surcharge that would otherwise be returned to large customers beginning on June 2, 2002 to fund the revenue deficiency.[2] That is, part of the "catch-up" surcharge would be used to fund the $29 million annual revenue shortage not already recovered in rates.

In support, petitioners assert that this avoids the "rate shock" caused by the Commission-adopted approach, with minimal impact on other large customers. Petitioners estimate that the "rate increase" to other large customers would be $0.0012/kWh, implemented by not reducing rates as much as would otherwise occur on June 2, 2002. In further support, petitioners state that this would eliminate any alleged revenue deficiency for SCE.

5. Discussion

We decline to grant the petition for modification. Option 4 is a variation of the options already considered, but is neither sufficiently novel nor meritorious to justify its adoption.

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[2] The "catch-up" surcharge results from D.01-03-082 and D.01-05-064. D.01-03-082, dated March 27, 2001, granted Pacific Gas and Electric Company (PG&E) and SCE authority to increase rates by adding a $0.03/kWh surcharge. D.01-05-064 allocated the surcharge among customers, and approved customer-specific rates to implement the average increase adopted on March 27, 2001. The new rates became effective on June 1, 2001 for PG&E, and on June 3, 2001 for SCE. D.01-05-064 required the new rates to include a component to recover over a period of one year revenues associated with the $0.03/kWh surcharge not collected between March 27, 2001 and the date of the new rates (e.g., June 1, 2001 for PG&E; June 3, 2001 for SCE). On a total system basis, this component equals approximately $0.0052/kWh for PG&E, and $0.0053/kWh for SCE. (Resolution E-3776, pages 1-2.)

Each treatment of the bill limiter affects some or all customers. For example, Option 1 (ending the bill limiter without other adjustment) means other large power customers continue to pay an extra $25 million per year. This results in other large customers paying a disproportionate share of the surplus credited to the PROACT. Alternatively, Option 1 requires a reduction in rates for other large customers by $25 million annually, or inclusion of these revenues in a memorandum account for later disposition to some or all customers.

Similarly, Option 2 (continuing the bill limiter without adjustment) results in a lower surplus of about $29 million per year credited to the PROACT. This affects all customers by extending the PROACT recovery period. Alternatively, Option 2 requires that other rates be increased, or the shortfall be recorded in a memorandum account for subsequent disposition.

After careful consideration, we adopted Option 3 (continuing the bill limiter for the portion of rates in effect before 2001), with the intention of examining and considering further bill limiter treatment in SCE's next GRC. This approach allows bill-limited interruptible customers to continue to receive the same benefit already found reasonable and funded by other customers. It neither disturbs the PROACT recovery period, nor does it require other rate adjustments or balancing account treatment.

Petitioners now propose Option 4: continuation of the bill limiter in full, with the incremental $29 million shortfall recovered by further revenue shifts within the large power customer class. This would be accomplished, according to petitioners, by not fully terminating the approximately $0.0053/kWh "catch-up" surcharge for large power customers otherwise planned for June 2, 2002.

Petitioners' proposal to use the "catch-up" surcharge is unavailable, however, since we did not end the "catch-up" surcharge on June 2, 2002. Rather, the "catch-up" surcharge continues, with the revenue tracked in a memorandum account for later disposition. (Resolution E-3776.[3])

SCE supports petitioners' proposal as long as a source of revenue is established. SCE offers to debit the approximately $29 million per year shortfall into the memorandum account created by Resolution E-3776. If the memorandum account balance is later returned to ratepayers, SCE proposes that the large power customers' share of the refund be reduced by the amounts debited for the additional bill limiter revenue deficiency. If the memorandum account balance is later recorded to the PROACT, SCE proposes that the revenue shortfall attributable to the bill limiter be recorded in a newly established memorandum account, and then collected from all large power customers in future rates.

We decline to adopt SCE's proposal. SCE's approach requires additional complicated accounting that would result in all other large customers paying the $29 million annual revenue deficiency either (a) at the time the memorandum account balances are returned to ratepayers or (b) if not returned to ratepayers but recorded to PROACT, by smaller rate reductions for large power customers when PROACT is fully recovered. We decline to complicate current and future

[3] Resolution E-3776 (June 6, 2002) requires PG&E and SCE to each establish a memorandum account to record with interest the total revenues received by PG&E after May 31, 2002, and by SCE after June 2, 2002, associated with continuing the "catch-up" surcharge. The Commission will determine the disposition and allocation of these revenues at a later date.

ratemaking in this way, and burden other large power customers with an additional cost of about $29 million per year.

In our Phase 2 order, we already considered and rejected raising customer rates, saying:

> "While we could raise large power customer rates or other rates by $29 million per year to offset this effect, no party makes a convincing showing that this is an efficient and equitable outcome." (D.02-04-060, mimeo., page 30.)

Petitioners present no new argument that convinces us Option 4 is more efficient or equitable, if at all, than other options. Option 4 is simply an additional revenue shift within the group of large power customers. The revenue shift must be paid either now or later.

Moreover, any number of potential uses might be found for the "catch-up" surcharge revenue. We are not persuaded that we should begin to identify and weigh the merits of competing uses, nor now earmark and limit use of these funds. Rather, disposition and allocation will be determined at a later time. (Resolution E-3776.)

Bill limited customers have enjoyed approximately $230 million in reduced rates over about 9.25 years. (D.02-04-060, mimeo., page 27.) The bill limiter was not intended to be a permanent benefit for a few pre-1993 customers. Rather, the purpose of the bill limiter has largely been met (i.e., to mitigate the impact of transferring Schedule I-3 and I-5 customers to Schedule I-6 on January 1, 1993).

Nonetheless, our Phase 2 order did not end the bill limiter completely. We weighed the benefits and burdens and found that continuing the bill limiter at the $25 million per year level maintained the same benefit already found reasonable, already included in rates, and already being paid by other large customers. We are not persuaded by petitioners to modify that decision, increase

other large power customer rates by approximately another $29 million, and further complicate already complex ratemaking. We also reaffirm, however, our intention to examine and consider further treatment of the bill limiter (including the possibility of its expansion or complete elimination) in SCE's next GRC. (D.02-04-060, mimeo., page 30.)

6. Close Proceeding

All issues in this investigation are now resolved, and this proceeding should be closed.

7. Comments on Draft Decision

On November 14, 2002, the draft decision of Presiding Officer and Assigned Commissioner Wood was served on parties in accordance with Pub. Util. Code § 311(g)(1), and Rule 77.7 of the Commission's Rules of Practice and Procedure.

Comments were filed and served on December 3, 2002 by CIU. CIU urges the Commission to revise the Draft Decision and grant the CIU / CLECA petition. No reply comments were filed. We carefully consider CIU's comments, but are not persuaded to modify the draft decision.

8. Assignment of Proceeding

Carl Wood is the Assigned Commissioner and Burton W. Mattson is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Bill limiters for SCE interruptible program Schedules I-3 and I-5 were first adopted in SCE's 1992 GRC decision for the purpose of mitigating the impact of transferring Schedule I-3 and I-5 customers of record on December 31, 1992 to Schedule I-6 on January 1, 1993.

2. The annual revenue deficiency created by the bill limiter in 2002 is about $54 million, with $25 million recovered through an existing revenue shift to other large customers, and $29 million not recovered from any other customer class.

3. Option 1 (ending the bill limiter without any other adjustment) means other large customers continue to pay an extra $25 million per year, resulting in these customers paying a disproportionate share of the surplus credited to the PROACT, requiring a reduction in rates, or requiring inclusion of these revenues in a memorandum account for later disposition to some or all customers.

4. Option 2 (continuing the bill limiter without adjustment) results in a lower surplus of about $29 million per year credited to the PROACT, affecting all customers by extending the PROACT recovery period, requiring that other rates be increased, or requiring that the shortfall be recorded in a memorandum account for subsequent disposition.

5. Option 3 (continuing the bill limiter for the portion of rates in effect before 2001) allows bill-limited interruptible customers to continue to receive the same benefit already found reasonable and funded by other customers, and neither disturbs the PROACT recovery period, nor does it require other rate adjustments or balancing account treatment.

6. Option 4 (continuing the bill limiter in full with the revenue shortfall recovered by declining to fully terminate the “catch-up” surcharge for large power customers) is unavailable since the “catch-up” surcharge was not terminated on June 2, 2002.

7. SCE proposes to debit the approximately $29 million per year shortfall into the memorandum account created by Resolution E-3776.

8. SCE’s proposal requires additional complicated accounting and ratemaking that would result in all other large customers paying the $29 million

annual revenue deficiency either (a) at the time the memorandum account balances are returned to ratepayers or (b) if not returned to ratepayers but recorded to PROACT, by smaller rate reductions for large power customers when PROACT is fully recovered.

9. Option 4 is neither more efficient nor equitable, if at all, than other options.

10. All issues in this proceeding are now resolved.

Conclusions of Law

1. The May 21, 2002 petition for modification filed by CIU and CLECA regarding the bill limiter should be denied.

2. Further treatment of the bill limiter in SCE's interruptible program tariffs (including the possibility of its expansion or complete elimination) should be considered in SCE's next GRC.

3. This proceeding should be closed.

4. This order should be effective today so that the treatment of the bill limiter is clarified, certainty is provided to customers as soon as reasonably possible, and the proceeding is closed without unnecessary delay.

FINAL ORDER

IT IS ORDERED that:

1. The petition dated May 21, 2002 of the California Industrial Users and California Large Energy Consumers Association to modify Decision 02-04-060 regarding the bill limiter is denied.

2. This proceeding is closed.

This order is effective today.

Dated _____, at San Francisco, California.